

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DENNIS FLOERER,

Plaintiff,

v.

WILLIAM PECK, *et al.*,

Defendants.

NO. CV-05-5039-EFS

**ORDER DENYING PLAINTIFF'S
MOTION FOR RECONSIDERATION FOR
TYPEWRITER ACCESS**

Before the Court, without oral argument, is Plaintiff's Motion for Reconsideration for Typewriter Access. (Ct. Rec. 467.) After reviewing the submitted materials and relevant authority, the Court is fully informed and denies Plaintiff's motion for reconsideration. The reasons for the Court's Order are set forth below.

Plaintiff, for a third time, asks the Court to reconsider the typewriter access restrictions it set forth in the September 6, 2007, Order. (Ct. Rec. 455.)

A motion for reconsideration is "appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is

1 an intervening change in controlling law." *Sch. Dist. No. 1J v. AC&S,*
2 *Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). "[A] motion for reconsideration
3 should not be granted, absent highly unusual circumstances." *389 Orange*
4 *St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999). A motion for
5 reconsideration may not be used to raise arguments or present evidence
6 for the first time when they could reasonably have been raised earlier
7 in the litigation. *Id.*; *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d
8 877, 890 (9th Cir. 2000).

9 Plaintiff's request is based on "newly discovered medical evidence"
10 from Dr. Clifford J. Johnson, an osteopathic physician at Clallam Bay
11 Correction Center. Dr. Johnson reported, in response to a Health
12 Services Kite from Plaintiff, that Plaintiff's hand is slow healing
13 because "the soft tissues were damaged when the bone was broken."
14 (Ct. Rec. 467 at 7.) Dr. Johnson's response is not newly discovered
15 medical evidence; rather, it explains why Plaintiff still experiences
16 pain from an inmate altercation in June. Because the Court also finds
17 no clear error or intervening change in controlling law, Plaintiff's
18 motion for reconsideration is denied.

19 Accordingly, **IT IS HEREBY ORDERED:**

20 1. Plaintiff's Motion for Reconsideration for Typewriter Access
21 **(Ct. Rec. 467) is DENIED.**

22 2. Plaintiff shall not file any further motions without this Court's
23 permission unless the motion is explicitly authorized in a previous
24 scheduling order.

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ORDER ~ 2

1 **IT IS SO ORDERED.** The District Court Executive is directed to enter
2 this Order and provide a copy to defense counsel and to Plaintiff.

3 **DATED** this 26th day of October 2007.
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5 S/ Edward F. Shea
6 EDWARD F. SHEA
United States District Judge

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